

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MISSOURI

IN RE:)	
)	
MICHELE LEE DIXON)	Case No. 11-62068
)	
)	Chapter 7
Debtor.)	
_____)	
)	
MICHELE LEE DIXON)	
)	
Plaintiff,)	Adversary Case No.
)	
vs.)	
)	
SALLIE MAE, INC.)	
XEROX EDUCATION SERVICES, LLC)	
dba ACS EDUCATION SERVICES)	
AMERICAN EDUCATION SERVICES)	
EDUCAP INC.)	
MOHELA)	
U.S. DEPARTMENT OF EDUCATION)	
NELNET)	
SUNTRUST BANK)	
NATIONAL COLLEGIATE TRUST)	
)	
Defendants.)	

COMPLAINT TO DETERMINE DISCHARGEABILITY
OF STUDENT LOANS UNDER §523 (a)(8)

COMES NOW Plaintiff Michele Lee Dixon, by and through her attorneys Krigel & Krigel, P.C., and for her Complaint against Defendants Sallie Mae, Inc. ("Sallie Mae"), Xerox Education Services, LLC dba ACS Education Services ("ACS"), American Education Services ("AES"), EduCap, Inc. ("EduCap"), Mohela ("Mohela"), U.S. Department of Education, National Collegiate Trust ("NCT"), Sun Trust Bank ("Sun Trust") and NelNet ("NelNet") states and alleges as follows:

1. This is a core proceeding over which this court has jurisdiction under 28 U.S.C. §157 (b)(2)(I) and relates to *In Re Michele Lee Dixon*, Chapter 7 bankruptcy Case Number 11-

62068, pending in the United States Bankruptcy Court for the Western District of Missouri.

2. Plaintiff filed her Petition under Chapter 7 of the Bankruptcy Code on September, 22, 2011, received a discharge, and the case was closed on December 29, 2011.

3. On April 1, 2014, Plaintiff filed a motion to reopen case number 11-62068 to *Determine that Student Loan Debts are Discharged.*

4. Defendant Sallie Mae, Inc. is a Delaware corporation, authorized to do business in the State of Missouri, and the successor to Sallie Mae Servicing, LP, a Delaware limited partnership, which was merged into Sallie Mae, Inc. ("Sallie Mae"). The Defendant Sallie Mae can be served by serving it at 10550 W. Charleston Blvd., Las Vegas NV 89135.

5. Defendant AES can be served at P.O. Box 2461, Harrisburg, PA 17105, 1200 N. 7th Harrisburg, PA 17102, and at AES, Compliance Services, Loan Discharge Unit, 1200 North Seventh Street, Harrisburg, PA 17102-1444.

6. Defendant MOHELA can be served at 633 Spirit Drive, Chesterfield MO 63006 and at 3515 Amazonas Drive, Jefferson City, MO 65109.

7. Defendant EduCap can be served at Loan to Learn 45610 Woodland Road Suite 370, Sterling VA 20166, Bank of America, 21550 Ridgetop Circle, Sterling VA 20166, and through its attorneys Lisa Epps Dade and Andrea M. Chase, Spencer Fane Britt & Browne, LLP, 1000 Walnut, Suite 1400, Kansas City MO 64106-2140.

8. Defendant ACS can be served at 601 Bleecker Street, Utica, NY 13601.

9. Defendant US Department of Education can be served at U.S. Department of Education, 400 Maryland Avenue SW, Washington DC 20202 and U.S. Attorney's Office, 400 East 9th Street, Kansas City, MO 64106.

10. Defendant NelNet can be served at NelNet, 3015 S. Parker Road, Suite 400, Aurora, CO 80014-2904.

11. SunTrust can be served at PO Box 85526, Richmond, VA 23286.

12. NCT can be served at NCO 5626 Frantz Road, Dublin OH 43017.

13. Plaintiff is indebted to Defendants for educational loan or loans made by Defendants to Plaintiff. A recent credit report through Experian reflects the following outstanding student loans:¹

<u>Lender</u>	<u>Date of Loan</u>	<u>Balance</u>
ACS	6/2007	\$ 45,141
AES	4/2007	\$ 18,188
Sallie Mae	1/2005	\$ 53,286
Sallie Mae	9/2006	\$ 34,159
Sallie Mae	8/2006	\$ 16,224
Sallie Mae	6/2007	\$ 16,154
Sallie Mae	12/2007	\$ 13,813
Sallie Mae	4/2008	\$ 12,347
Sallie Mae	9/2008	\$ 4,704
US Dept Education	9/2009	\$ 6,366
US Dept Education	8/2010	\$ 8,206
Nelnet	6/2010	\$ 6,600
EduCap	5/2006	\$ 8,251
National Collegiate/NCO	unknown	\$ 16,775
National Collegiate/NCO	unknown	\$ 16,500
National Collegiate/NCO	unknown	\$ 19,587
National Collegiate/NCO	unknown	\$ 54,035
Mohela	11/2002	\$ 11,480
Mohela	8/2003	\$ 14,408
Mohela	11/2004	\$ 6,908
Mohela	5/2005	\$ 3,847
Mohela	11/1992	\$ 534
Mohela	3/1993	\$ 900
Mohela	11/1993	\$ 1,111
SunTrust	7/2008	\$ 6,648

14. This is an adversary proceeding brought under 11 U.S.C. §523(a)(8) for a

¹ Some of these loans may be duplicates of others .

determination of dischargeability of these debts.

15. Plaintiff has been and will continue to be unable to maintain a minimal standard of living if forced to repay these loans, whether individually or collectively.

16. Excepting the debts owed to Defendants from discharge under 11 U.S.C. § 523 (a)(8) of the Bankruptcy Code will impose an undue hardship on the Plaintiff.

17. Plaintiff has made good-faith efforts to repay the debts to Defendants. However, the Plaintiff has not been able to pay her student loan debts and at least one company, EduCap Inc., who has taken an assignment of a student loan debt, has filed a lawsuit against her to collect that debt. That case is presently pending in the Circuit Court of Greene County, Missouri.

18. These loans are private student loans and the Plaintiff has been told that the ICRP or the IRP are not available to her for these loans.

19. Circumstances exist which substantiate that the Plaintiff's budget is likely to remain at its current level or worsen for a significant portion of the repayment period. Thus, it is unlikely that Plaintiff will be able to repay these student loans within the foreseeable future.

20. Plaintiff attended Weber State University through on-line courses from 2004 to 2011 where she received her Associate' Degree and Bachelor' of Science in Clinical Lab Science and was told that upon graduation she could expect to earn between \$20-\$40/per hour.

21. Student loans acquired during her time with Weber State University paid for the Plaintiff's tuition and living expenses.

22. Upon graduation from Weber State University, the Plaintiff obtained a position with a hospital and currently works at a hospital earning \$18.91/hour.

23. Plaintiff seeks a discharge of these student loans pursuant to 11 U.S.C. §523(a)(8).

WHEREFORE, Plaintiff prays that the Court enter a judgment against Defendants in favor of Plaintiff declaring that these student loan debts are discharged, and for such other and further relief as this Court deems just and proper.

KRIGEL & KRIGEL, P.C.

/s/ Erlene W. Krigel

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